

Application No. 10/731,664
November 2, 2004
Reply to Office Action mailed July 13, 2004

Page 7

Remarks:

In the present office action, the Examiner rejected Claims 1-13 under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 6,572,035 (the "'035 Patent"). The Examiner noted that the '035 Patent and the present patent application are not commonly assigned. The Applicants respectfully disagree with the aforementioned rejection. Additionally, the Applicants respectfully direct the Examiner to the enclosed Patent Application Information Retrieval ("PAIR") documents, which indicate common assignment of the '035 Patent and present patent application to "CNH America LLC". For future reference, "CNH America LLC" is the entity in which all Case Corporation, Case LLC, and New Holland North America Inc. patent applications and issued patents are commonly assigned.

Regarding the current rejection, as background, the '035 Patent, assigned to CNH America LLC, begat the present invention. Specifically, after exhaustive testing of the '035 Patent by Jonathan Ricketts, joint inventor of the present invention, it was found that the '035 Patent created a high amount of positive, back pressure but no negative air pressure. Thus, the present invention, which creates a high negative pressure, was conceived. Accordingly, the blade embodiments of the present invention are able to dramatically improve induction of chaff and air into the spreader from the cleaning system to improve air flow through the combine chassis and accelerate the chaff outwardly from the spreader in a wide discharge pattern for distributing it over a desirably large area of a field. In short, the present invention accomplishes everything that the '035 Patent does and more.

Regardless, the Applicants would like to sincerely thank Examiner Kovacs for the courtesy of participating in an October 27, 2004 telephone interview; the Applicants are

Application No. 10/731,664
November 2, 2004
Reply to Office Action mailed July 13, 2004

Page 8

extremely appreciative. During the interview, the Applicants and the Examiner discussed the rejection of Claims 1-13 and, particularly, the specific characteristics included in original independent Claims 1, 6, and 10 and how the characteristics distinguish the claims over the cited '035 Patent. The Applicants wish to note that, after discussion of the following specific issues, the Examiner agreed that Claims 1-13 were indeed allowable and in condition for receipt of a Notice of Allowance.

First, during the telephone interview with Examiner Kovacs, the Applicants highlighted that each of independent Claims 1, 6, and 10 commonly detail that the vertical crop residue spreader's blades include a surface portion, which includes a radial outer tip portion that extends radially outwardly and forwardly from the blade and has a shape and orientation that during rotation will generate a negative pressure condition in a region forwardly of the forwardly facing opening of the housing for inducting the second flow into the housing therethrough. The Applicants respectfully note that nowhere within the '035 Patent is it envisioned or discussed that the crop residue spreader's blade have the potential of creating a negative pressure condition or suction in the vicinity of the chaff flow for overcoming any undesirable back pressure condition.

As detailed on page 3, line 31 – page 4, line 4 of the Specification of the present invention, prior art vertical crop residue spreader blades, such as those disclosed by the '035 Patent, are inadequate because they generate a positive, back pressure within the cleaning system. More specifically:

[V]ertical crop residue spreaders including rapidly rotating rotary accelerating apparatus having such relatively large blades have been found to generate an undesirable back pressure condition forwardly of the blades in the region for receiving and inducting the chaff from the cleaning system, which results in a

Application No. 10/731,664

Page 9

November 2, 2004

Reply to Office Action mailed July 13, 2004

build-up of crop residue in that region and even blow back of crop residue into the cleaning system area.

Further, as detailed on page 11, lines 5 – 13 of the Specification, and in reference to Figures 2-4, the '035 Patent's shortcomings can be contributed to the:

relatively large extent of blades 76, the relatively fast rotational speed of rotation, and the volume and force of the downward straw flow denoted by arrows B, it has been observed that **back pressure can be generated in region 40 (Figs. 2-4) forwardly of accelerating apparatus 16, which back pressure can be sufficient to inhibit and significantly reduce the chaff and air flow denoted by arrows C into spreader 14.**

Alternatively, as discussed with the "Summary of the Invention" section, (page 4, line 29 – page 5, line 9) of the present patent application, the present invention cures the above deficiencies and problems of the '035 Patent prior art system by disclosing a:

rotary accelerating apparatus for a vertical crop residue spreader of an agricultural combine, that is capable of receiving, combining and accelerating a relatively high velocity of voluminous flow of relatively heavy, bulky crop residue including straw and the like deflected downwardly from the thresher of the combine, and a weaker, less voluminous flow of chaff and air from the cleaning system of the combine located forwardly of the spreader, by generating a negative pressure or suction condition in the vicinity of the chaff flow for overcoming any undesirable back pressure condition that interferes with induction of the crop residue flow from the cleaning system and which facilitates air flow through the chassis region of the combine to reduce conditions leading to undesirable dust buildup and other problems.

As further described on page 13, lines 3 – 26 of the Specification, the vertical crop spreader of the present invention solves the positive, back pressure problem encountered by the '035 Patent:

To counter this problem, first surface portion 86 of each blade 76 has a forward radial outer tip portion 90 thereof which, importantly, during rotation of the crop residue accelerator 14 counteracts and eliminates the positive pressure or back pressure condition generated by blades 76, and instead, generates a negative pressure or suction condition in region 40. As a result, instead of inhibiting or

Application No. 10/731,664

Page 10

November 2, 2004

Reply to Office Action mailed July 13, 2004

rejecting the chaff flow C, the shape of blades 76 function as a fan or impeller for positively inducting or pulling the chaff and air flow into the path of blades 76.

This is achieved by the shape and orientation of outer tip portion 90. Tip portion 90 has a gently angled or curved shape which extends forwardly and toward the direction of rotation D from surface portion 86 to a radially extending outermost edge portion 92 spaced from surface portion 86 in the direction of rotation D. Edge portion 92 of tip portion 90 is preferably oriented at a small acute angle to the rotational direction as determined in the vicinity of the respective tip portion 90 so as to generate a rearward air flow during the rotation, which angle can be within a range of from just a few degrees to up to about 40 degrees, depending on the conditions of a particular application.

Accordingly, as agreed upon by the Examiner during the telephone interview, it is clear that original independent Claims 1, 6, and 10 of the present invention are distinguishable over any and every embodiment disclosed by the '035 Patent. Furthermore, Claims 2-5; 7-9; and 11-13, which depend from Claims 1, 6, and 10, respectively, are also in condition for allowance as being dependent upon an allowable base claim.

Application No. 10/731,664

Page 11

November 2, 2004

Reply to Office Action mailed July 13, 2004

In summary, and in light of the Applicants' October 27, 2004 telephone conversation with Examiner Kovacs, it is agreed upon that original Claims 1-13 are patentable and in condition for allowance as being distinguishable over the '035 Patent. Therefore, favorable reconsideration of the application is respectfully requested. Should the Examiner believe that the prosecution of the application could be so expedited, he is requested to call Applicants' undersigned Attorney at the number listed below.

Respectfully submitted:

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